

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

MICHAEL MARK MARTIN,)	
)	6: 15-cv-00226-PK
Plaintiff,)	
)	
v.)	ORDER
)	
OREGON DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants.)	

PAPAK, Magistrate Judge.

I. Plaintiff's Motion for Leave to File an Amended Complaint [25]

Plaintiff seeks leave to file an amended complaint in this prisoner civil rights action on the basis: (1) that due to restricted legal library computer access, his previously filed, hand-written complaint only had very basic facts and no supporting documentation; (2) that new, related claims have come to light and should be included in the complaint; and (3) that he has identified new defendants, including one previously listed as "Jane Doe".

Defendants take no position on plaintiff's motion, but have requested a protective order concerning discovery and a stay in responding to plaintiff's motion for injunctive relief pending the Court's resolution of the motion for leave to file an amended complaint. Plaintiff's Motion for Leave to File an Amended Complaint is GRANTED. In addition, the Court grants plaintiff's Motion to Substitute a Party [29]. The Clerk of Court is directed docket plaintiff's proposed amended complaint and attachments as the operative pleading in this action and to add Ms. Aguinaga as a defendant in the case. Also, with this Order, the Court will issue a new Notice of Lawsuit and Request for Waiver of Service of Summons as to Ms. Aguinaga.

As the Court is granting plaintiff's Motion to Amend his Complaint, defendants' Motion for a Protective Order and Stay [26] and plaintiff's pending Motions [28] & [32] regarding the current scheduling order and outstanding discovery requests are DENIED as moot.

II. Motion for Preliminary Injunction [22]

In his motion for injunctive relief, plaintiff seeks an Order from the Court enjoining defendants from: (1) installing ladders in cells with less than 60 square feet per man; and (2) double celling inmates in cells with less than 60 square feet per man.

Ordinarily, a preliminary injunction maintains the status quo pending a final decision on the merits. *University of Texas v.*

Camenisch, 451 U.S. 390, 395 (1981). Plaintiff is asking the Court to alter the status quo by granting him, before trial, the very relief he hopes to obtain through this action. Such a "mandatory injunction," as it is known, is granted only in extraordinary circumstances. See *LGS Architects, Inc. V. Concordia Homes of Nevada*, 434 F.3d 1150, 1158 (9th Cir. 2006). Plaintiff has not shown that the present case rises to that level and his motion for preliminary injunction is denied.

III. Plaintiff's Second Motion for Appointment of Counsel [31]

For the reasons set forth in the Court's prior Order [8] plaintiff's Motion [31] is DENIED.

CONCLUSION

Based on the foregoing, plaintiff's Motion for Leave to File a Second Amended Complaint [25] and Motion to Substitute Party [29] are GRANTED. The Clerk of Court is directed docket plaintiff's proposed amended complaint and attachments as the operative pleading in this action and to add Ms. Aguinaga as a defendant in the case. Also, with this Order, the Court will issue a separate Notice of Lawsuit and Request for Waiver of Service of Summons as to Ms. Aguinaga.

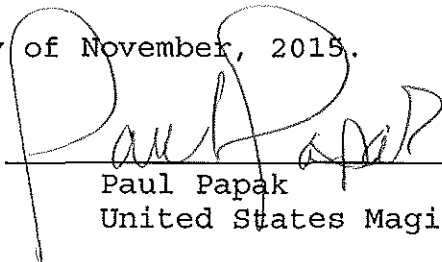
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Plaintiff's Motion for Preliminary Injunction [22] and Second Motion for Appointment of Counsel [31] are DENIED. All other motions currently pending before the Court are DENIED as moot.

IT IS SO ORDERED.

DATED this 3rd day of November, 2015.



Paul Papak
United States Magistrate Judge